DOCUMENT RESUME

ED 391 201 CS 509 146

AUTHOR Craig, J. Robert; Smith, B. R.
TITLE The Children's Television Act of 1990 and Freedom of Speech: A Market Study.
PUB DATE Nov 95
NOTE 17p.; Paper presented at the Annual Meeting of the Speech Communication Association (81st, San Antonio, TX, November 18-21, 1995).
PUB TYPE Reports - Evaluative/Feasibility (142) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Audience Awareness; Case Studies; *Childrens Television; Commercial Television; *Freedom of Speech; *Government Role; Interviews; *Opinions; *Programming (Broadcast); Scheduling; Television Research
IDENTIFIERS *Childrens Television Act 1990; First Amendment; Market Research; Michigan (Bay City); Michigan (Flint); Michigan (Saginaw); Television Stations

ABSTRACT

A study examined the effects of the Children's Television Act of 1990 on television stations' freedom to schedule programs. Subjects were programming directors responsible for scheduling children's blocks in the Flint-Saginaw-Bay City, Michigan, TV market, the nation's 60th largest. The four program directors, whose stations were major network affiliates, were interviewed in July 1995 and asked what they had done during the past 4 years to address the requirements of the Children's Television Act and whether the 1990 Act had affected their freedom to program the station the way they wanted. Overall, while there were some expressions of concern from the program directors about private marketplace decision making being infringed upon by government pressure for more pro-social children's programming, they seem to view the need for compliance with various federal mandates as nothing new or unexpected. Their primary response is best categorized as a willing and somewhat resigned quest for practical, affordable, and efficient forms of programming to adequately reflect the spirit and intent of the 1990 Act. Of the four program directors, only one felt that the Act had infringed on her First Amendment directors, only one felt that the Act had infringed her First Amendment right to program her station as she wished. Of greater impact is the added paperwork the Act's compliance necessitates. Two of the subjects noted the time, preparation, and energy that goes into producing FCC-friendly programming at the local level, to comply with the requirement of a specific number of hours per week of educational and informational children's programming. (Contains nine references.) (NKA)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 391 201

The Children's Television Act of 1990 and Freedom of Speech: A Market Study

by

J. Robert Craig, Ph.D.
Professor of Broadcast & Cinematic Arts

and

B.R. Smith, Ph.D.
Associate Professor of Broadcast & Cinematic Arts

340 Moore Hall
Central Michigan University
Mt. Pleasant, MI 48859
Fax 517-774-2426
Phone 517-774-3851

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

B R Smith

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Presented at the 81st annual convention of the Speech Communication Association, November 18-21, 1995, San Antonio, Texas.

CS 505146

BEST COPY AVAILABLE

The Children's Television Act of 1990 and Freedom of Speech:
A Market Study

In 1990 Congress passed the Children's Television Act of 1990, statutorily mandating various requirements for commercial television stations and cable franchises and networks. This legislation (effective in 1991) limits the amount of advertising time allowed in children's programs and provides guidelines defining illegal "program-length commercials." Most significantly, the statute requires the Federal Communications Commission to review two aspects of children's programming at renewal time for television licensees: (1) the licensee's compliance with the commercial limitations and (2) whether the licensee has served the educational and information needs of children in the station's service area by programming material specifically designed to serve such needs. As with a variety of other electronic media requirements, this legislation applies to television and (to a lesser extent) cable free speech restrictions that would be unheard of for the print media.

Kunkel and Canepa have studied broadcasters' renewal claims relevant to children's programming (Kunkel & Canepa), and other studies have addressed a limited number of research concerns examining children's programming since the 1990 act went into effect. At the same time, little has been heard on a market basis from individual programmers regarding their efforts to meet the Act's requirements and their attitudes toward how these mandates impact upon the program directors' leeway to schedule their

stations as they wish.

This paper will discuss the basic requirements of the 1990 Children's Television Act and present the results of interviews with programming directors responsible for scheduling children's blocks in the Flint-Saginaw-Bay City, Michigan television market--the nation's 60th largest according to Arbitron rankings--to determine what effects the legislation has had on the stations' freedom to schedule programs.

Issues surrounding children's television programming reflect the central sweeping philosophical, social, economic, and constitutional questions cutting to the core of who we are and who we want to be as a society. As a democratic, capitalistic nation, we place limitations on the role of government in our lives. We subscribe to the concept of free private enterprise, yet we recognize that in certain areas there must be government regulation to protect our individual and collective freedoms. Compromises must be made in order to minimize sparks resulting from inevitable abrasion between the open marketplace of ideas and what may be deemed socially responsible media content in the public interest. The United States Constitution protects freedom of expression and the Communications Act of 1934 prohibits government censorship of radio and television program content. There is room for widely differing opinion as to how a balance should be achieved between "anything goes" and government restrictions. In the case of broadcasting, frequencies used by radio and television stations in the United States are, by government decree, "owned" neither by the

stations nor by the government, but by the public. Commercial stations program these to appeal to the public, and the larger the audience drawn to the advertising by the programming, the higher the price a broadcaster can charge for the commercial time.

The general approach to regulation in the United States has been for the government to permit stations to air what the public seems to prefer. This system has been called "permissive," as opposed to other more "paternalistic" patterns, where government, acting as parent, requires a balanced blend of programming featuring educational and public service programs in addition to those created for broader public appeal. The permissive system often results in the least common denominator or broad, mass-appeal programming often cited as the typical fare of United States broadcasting.

The children's audience is viewed by some as in need of more guidance and a mandated array of program types than is the general public. Here, the theory is that growing, evolving children are more impressionable and susceptible. Children may be taken advantage of by a profit-oriented system which lures them through shallow, escapist programming into being targets for manipulative advertising content. There is concern about whether the children's audience should be offered a limited menu featuring only escapist fare with little educational value. According to those adhering to this philosophy, perhaps a paternalistic hand is needed to ensure that at least some minimal breadth of program content is available for children.

One of the most prominent advocates of this philosophy was a group called Action for Children's Television (ACT), which under the leadership of Peggy Charren, pressured broadcasters, Congress, and the Federal Communications Commission to join in efforts to expand TV program choices for children and to place limitations on the amount of advertising in time periods featuring children's programs. Other groups, such as the Council on Children, Media and Merchandising (CCMM), the National Association for Better Broadcasting (NABB), the Media Action Research Center (MARC), the Coalition for Better TV (CBTV), and the Center for Media Education (CME) have also actively urged improvements in children's television. While petitions for government action have resulted in various notices and voluntary guidelines, much of the effectiveness of these pressure groups has been in focusing public attention and concern toward children's programs and the advertising associated with them. The FCC did indicate in the 1970's and 80's that stations have a responsibility to address the programming needs of children, but measurable specifics were not identified. In the 1980's the political climate became more conservative under Ronald Reagan and his FCC Chairman, Mark Fowler, with a resulting tendency to further limit the role of government in broadcasting. While there was some recognition of the need for improvement in television for children, there was also the general government position that cable, videocassettes, and the free marketplace would adequately address the need. Various bills were introduced in Congress to improve children's television programming and

complaints were brought to the attention of the FCC in the early and mid-1980's, but such efforts to promote action had little impact. In 1988, however, the Children's Television Protection Act was passed by Congress.(Signorielli 20) This was designed to place limits on advertising time in children's programs, and to require that stations schedule at least seven hours of educational and informational material per week. President Reagan vetoed the act because in his view it violated broadcasters' rights of expression under the First Amendment.(Lazar 70) The Television Program Improvement Act was signed into law in December of 1990 by President George Bush. This is popularly known as the Television Violence Act and, with this law, Congress provided a temporary exemption from antitrust action so that TV networks could get together in setting up guidelines for voluntarily reducing violence in programming.(Schlegel 188) Also in 1990, President Bush allowed a somewhat revised version of the Children's Television Protection Act to become law without his signature. This is the Children's Television Act of 1990, and Title I of the act states that Congress "finds" the following:

> (1) it has been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;
> (2) as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;
> (3) the financial support of advertisers assists in the provision of programming to children;
> (4) special safeguards are appropriate to protect children from overcommercialization on television;
> (5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteris-

> tics of this child audience; and
> (6) it is therefore necessary that the Federal Communications Commission take the actions required by this title.
> (U. S. Statutes 104 Stat. 996)

Advertising in children's television programming on both stations and cable systems was limited to not more than 10 1/2 minutes per hour on weekends and not more than 12 minutes per hour on weekdays. At the time of a station's application for license renewal, the FCC is to consider the extent to which the licensee has complied with the advertising limits and how the station has served the needs of children through its overall programming, including programs "specifically designed" to serve the educational and informational needs of children.(U.S. Statutes 104 Stat. 997) In addition, the FCC may consider any special nonbroadcast efforts which enhance the educational and informational value of children's programming and any support provided by a station for such programming on another station in the same market.

The FCC is expected to administer regulation under the Children's Television Act, but the absence of specific quantitative measures for compliance has left room for continued confusion and attempts at evasion. The limitation of advertising time does offer one partial exception, with a 1992 unannounced audit of 141 stations and 27 cable systems finding that 95 percent of the children's programming monitored met the commercial time limits.(Middleton 539) A later audit identified ten violations out of more than 160 stations and cable systems reviewed, and resulted in fines and other sanctions.(Hayes 301)

A related area of complaints by citizens' groups concerned

what became known as "program-length commercials." Some shows featured characters within a program which were also the subject of commercials. The position of the FCC in its ruling on this issue represents an example of compromise between the industry and the regulators; the Commission judged that a program based on a product is not to be defined as a program-length commercial unless both the show and the advertising feature the same product or character. Also the Commission has determined there must be a clear separation (such as a fade to black) between program content and advertising. This effectively rules out the selling of products by show hosts, which was a practice frequently objected to by concerned parents and groups.

Against this legislative-regulatory background the authors initiated a case study to investigate the Children's Television Act's impact on programming directors in one television market. With accessability to the Central Michigan University campus in Mt. Pleasant, Michigan a major determining factor, we decided to conduct telephone interviews with the program directors at the four major commercial network affiliates in the Flint-Saginaw-Bay City market, the country's 60th largest as classified by Arbitron market research data in the 1995 Broadcasting & Cable Yearbook.(C-151) The market includes stations affiliated with ABC (WJRT-TV, Flint), CBS (WNEM-TV, Saginaw), NBC (WEYI-TV, Clio), and Fox (WSMH-TV, Flint). The CBS and NBC affiliations changed in early 1995 as WNEM had been a longtime NBC affiliate, while WEYI was most recently connected with CBS. Program directors Bill Avery (WNEM) and Sara

Jo Gallock (WJRT) were interviewed July 15, 1995 and WEYI's Jon Bengtson and WSMH's Ken Robinson responded on July 26, 1995. Two general questions were posed to each program director: (1) "What have you done specifically in programming the station during the past four years to address the requirements of the Children's Television Act?" and (2) "How has the Children's Television Act affected your freedom to program the station the way you want to?"

Responses to the initial question show some variety. WNEM's Bill Avery and WEYI's Jon Bengtson chose to answer the query by discussing locally-based youth programs their stations produced. WSMH's Ken Robinson also brought up that station's Teen Talk, but noted it was presently on hiatus at the producer's request.

Sara Jo Gallock is in a different situation than her three peers. Since WJRT is presently being purchased by Cap-Cities/ABC as part of that network's merger with the Walt Disney Company, Gallock has had to reorient her programming strategy beyond reliance on a traditional Saturday-morning network schedule. Before the merger, WJRT had begun to pick up syndicated children's programming that was utilized to pre-empt ABC network programs not serving the local youth audience's educational and informational needs as required by the Act. Such pre-emptions will no longer occur, beginning with the Fall 1995 season. Gallock will also start clearing time to schedule the eight ABC Afternoon Specials that will appear from 4:00-5:00 p.m. on selected Wednesdays in the 1995-96 season. Finally, the station is picking up two half-hour children's programs produced by Disney's television arm, Buena

Vista television. The station has been assured the programs will be FCC friendly, with Buena Vista providing the paperwork necessary for the station to send to the Federal Communications Commission.

This paperwork requirement was mentioned by Gallock, Avery, and Bengtson, with the former emphasizing it as the major change brought about in her job by the Act. As Gallock noted, "I have to block time for ads and promotions to be sure we don't exceed the time limits," since such material counts toward the 10 1/2 and 12 minute commercial limitations.

Bengtson and Avery's stations have both chosen to schedule a locally-produced program in the market. WEYI, an NBC affiliate, airs its Young People's Report Saturdays from 9:30-10:00 a.m. following Saturday Today from the network. The program is produced weekly by students from area schools during the school year. The program addresses different subject matter each week, originating from various venues within the market. A core group of students work with station personnel on the series, and the producers strive to get away from the standard "talking head" format of so many similar locally-produced efforts. Bengtson also noted the station produced youth-oriented programs prior to the Act's implementation, and also created and aired public service announcements in conjunction with a local Boy Scout troop the station sponsors. All-in-all, Bengtson "See(s) the whole FCC requirements (requiring locally-produced programs) as a positive thing."

Following the Act's passage, WNEM's Bill Avery added Young Roundtable. Seeking a youth-oriented program with a "local edge,"

Avery says the program's evolution parallelling the Act's mandates is "more of a coincidence" than a direct response by the station. Targeted at children in "latter grade school through middle school," the program is scheduled twice a week: Saturday at 12:30 p.m. and Sunday at 7:00 a.m. Produced in cooperation with Flint-area psychologist, Dr. Marion Dunn, the program began as an audience talk program but has evolved into a round table discussion exploring one subject per week. The program's reliance on local youth has garnered acceptable ratings for WNEM. Avery feels that generally-produced educational programs without the "local edge" ". . .just don't do it," because kids simply do not watch them.

WSMH's Robinson provides his responses from a notably different perspective than his three counterparts. While Gallock, Bengtson, and Avery all live in the market in which they work, Robinson devises WSMH's schedule from an office in Cincinnati, Ohio, programming several stations for group owner R Group Communication. WSMH has done a local public service program, Teen Talk, airing every other week, but at the time of the interview the program was on hiatus at the producer's request, and Robinson had no idea when the program might reappear. Beyond that, Robinson relies primarily on the Fox Network's afternoon animated children's block under the Fox Clubhouse banner to meet the act's requirements for the 2-11 year old demographic. WSMH also airs Community Focus, a public service program, twice a month in lieu of a local newscast, but this program does not necessarily address the local youth market.

As for the Act's effect on the program directors' ability to program their stations the way they wish, Gallock and Avery both responded there have been few negatives resulting from the legislation's passage. Both programmers, however, state they wish the House and Senate were more in tune with television market realities before voting on the bill. As Bill Avery said, "Congress and the FCC never interviewed guys like me who have to program a station," before writing and voting on the legislation. Gallock concurs that the Act is an "ivory tower" bill telling us "...ideally what should happen." Of the four program directors, only Gallock responded affirmatively when asked whether she felt her First Amendment right to program the station is infringed by the Act. She went on to assert legislators crafting the bills "Don't tell you <u>how</u> to be the good guy!" Avery sees a lack of business reality inherent in the Act's mandates, and predicts a future with "all stations competing for the same audience and no one getting it" due to the youth demographic's propensity to channel surf.

WEYI's Jon Bengtson is less satisfied with the Act, claiming he is, "Not a big one for anything mandatory." Bengtson believes the marketplace should contribute to scheduling decisions, but feels the rapid turnover in station ownership presently taking place is causing communities to lose the benefits of having a station. For Bengtson, the Act at least forces a minimum level of responsibility for licensees whom he wishes were "longer-sighted these days." WEYI has undergone both ownership and network

affiliation changes in the past two years, with both contributing to Bengtson's response. He is particularly "nervous" about the possibilities of number quotas relative to children's programming being instituted by Reed Hundt's FCC, since NBC's Saturday morning schedule is teen oriented rather than targeted toward the younger demographic the Act specifies. If such quotas are put in place, Bengtson will have to find other syndicated programs for his schedule to meet the needs of the younger audience. As he notes, "It doesn't do the market any good to mandate a certain audience at a certain time and then only one station is viewed by that demographic."

WSMH's Ken Robinson had comparatively little to say regarding this question, saying "It really hasn't affected us." He went on to claim the ownership group and the station "care about our communities and younger viewers," but hesitated to go into any detail without prompting from the authors. When he did respond, we received replies such as, "We have a license, and part of the license is responsibility to the community."

Ultimately, the program directors do not appear overly burdened by the Children's Television Act of 1990 from a First Amendment perspective. Sara Jo Gallock was the only interviewee responding "yes" when asked whether the Act infringes her First Amendment right to program her station as she wishes. Of greater impact is the added paperwork the Act's compliance necessitates. The program directors indicate they would prefer to utilize their time for other tasks rather than filling out additional reports for

the FCC. Also of note is the eagerness of Jon Bengtson and Bill Avery to discuss the time, preparation, and energy that goes into producing FCC-friendly programming at the local level. Implied in these discussions is reaction to FCC Chair Reed Hundt's proposal in July, 1995 to require a specific number of hours of educational and informational children's programming per week.(McConnell 11) The question arises whether Mr. Hundt comprehends the resources a station must expend to conceptualize and produce such local programs.

Finally, we note the difference in breadth of responses and familiarity with their market displayed by Avery, Gallock, and Bengtson as contrasted with Robinson. The initial three all live and work in the Flint-Saginaw-Bay City market, and have clearly spent considerable time developing contacts with the communities and devising methods of keeping in touch with their audience's needs and concerns. Ken Robinson, on the other hand, programs WSMH from an office in Cincinnati, Ohio. His responses strike the authors as designed to hew a company line and avoid controversy. Additionally, Robinson's replies are so general one receives the impression (whether accurate or not) he has only scant personal contact with the communities and people he is programming to. We also note Robinson feels comfortable using the Fox network's afternoon Fox Clubhouse animated block to meet the market's educational and informational needs. This means the station relies on such programs as Tiny Toons Adventures, Animaniacs, Taz-Mania, and the Mighty Morphin Power Rangers along with syndicated fare

Ronin Warriors and Transformers: Generation 2 to help meet the act's requirements. On the other hand, approximately two months after the Robinson interview took place, the sale of WSMH-TV to Sinclair Broadcasting was reported in Broadcasting & Cable magazine. Mr. Robinson's responses likely were colored by his knowledge of the station's impending sale.

Overall, while there were some expressions of concern from these program directors about private marketplace decision making being infringed upon by government pressure for more pro-social children's programming, they seem to view the need for compliance with various federal mandates as nothing new or unexpected. The primary response is best categorized as a willing and somewhat resigned quest for practical, affordable, and efficient forms of programming to adequately reflect the spirit and intent of the Children's Television Act of 1990.

Sources Cited

Broadcasting & Cable Yearbook. Cahners Publishing Company, 1995.

Hayes, Diane Aden. "The Children's Hour Revisited: The Children's Television Act of 1990." Federal Communications Law Journal. March 1994: 293.

Kunkel, Dale, and Julie Canepa. "Broadcasters' License Renewal Claims Regarding Children's Educational Programming." Journal of Broadcasting and Electronic Media. Fall, 1994: 397.

Lazar, Bonnie A. "Under the Influence: An Analysis of Children's Television Regulation." Social Work. January 1994: 67.

McConnell, Chris. "Hundt seeks station-community kids contracts." Broadcasting & Cable. July 31, 1995: 11.

Middleton, Kent R., and Bill F. Chamberlain. The Law of Public Communication. New York: Longman, 1994.

Schlegel, Julia W. "The Television Violence Act of 1990: A New Program for Government Censorship?". Federal Communications Law Journal March 1994: 187.

Signorielli, Nancy. A Sourcebook on Children and Television. New York: Greenwood Press, 1991.

United States. United States Statutes at Large: Laws and Concurrent Resolutions Enacted During The Second Session of the One Hundred First Congress of the United States of America: 1990. Volume 104 Washington: United States Government Printing Office, 1991.